

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA**

**AT BECKLEY**

MARTIN ANTHONY LESTER,

Plaintiff,

v.

CIVIL ACTION NO. 5:19-cv-00509

ANDREW SAUL,

Commissioner of Social Security,

Defendant.

**ORDER**

Pending are Plaintiff Martin Anthony Lester's Memorandum in Support of Judgment on the Pleadings [Doc. 9] and the Commissioner's Brief in Support of the Defendant's Decision [Doc. 11]. This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Tinsley filed his PF&R on June 2, 2020 [Doc. 12]. Magistrate Judge Tinsley recommended that the Court deny Mr. Lester's request to reverse the Commissioner's decision, grant the Commissioner's request to affirm his decision, affirm the final decision of the Commissioner, and dismiss the matter from the Court's docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (emphasis added) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made*."). Failure to file timely objections constitutes a waiver of de novo review and the

Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on June 19, 2020. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 12**], **DENIES** Mr. Lester's request to reverse the Commissioner's decision [**Doc. 9**], **GRANTS** the Commissioner's request to affirm his decision [**Doc. 11**], **AFFIRMS** the final decision of the Commissioner, and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party herein.

ENTERED: August 21, 2020



*Frank W. Volk*  
Frank W. Volk  
United States District Judge